

April 17, 2006

VIA EMAIL AND US MAIL

E: rw@cpuc.ca.gov
Mr. Richard Clark, Director
Consumer Protection and Safety Division
California Public utilities Commission
505 Van Ness Avenue
San Francisco, California 94102

RE: Comments on Informal Workshop Concerning Proposed Citation Program

Dear Mr. Clark:

Cox California Telecom, LLC, dba Cox Communications, submits these comments in response to the informal workshop that Staff conducted on April 11, 2006 concerning CPSD's proposed slamming citation program as contemplated in drafts of Resolution No. UEB-001 circulated prior to the workshop. Cox appreciates the opportunity to participate at the informal workshop and believes that all the workshop participants gained a better understanding of the numerous issues relevant to the Commission considering and properly adopting a citation program, if any. Cox limits these informal comments to a single issue that it submits is critical to any citation program that the Commission may adopt. Cox recommends that any citation program detail the process CPSD would be required to follow prior to issuing a citation to a telecommunications carrier.¹

The draft resolutions that CPSD circulated prior to the informal workshop indicate that the Director of CPSD or his/her designee will be authorized to issue citations after "an investigation," but the draft resolutions do not detail the type of investigation CPSD would conduct or otherwise disclose the process that CPSD would follow prior to issuing a citation. During the Informal Workshop, Staff explained that CPSD would not pursue cases for which there are only a limited number of alleged complaints, but rather, CPSD would pursue cases for which it identifies a pattern of alleged violations. Staff also explained that CPSD would send a "warning letter" and permit the given carrier to respond prior to CPSD issuing any citation.²

Any citation program that the Commission may adopt must include the process CPSD will follow and the criteria that must be satisfied prior to CPSD issuing a citation. For example, Section 2 of the draft resolutions simply indicates that CPSD or his/her designee "is authorized to draft a citation and present it to the telecommunications provider and/or billing aggregator."³ An additional paragraph should be added that includes the criteria that CPSD would be required to adhere to in determining if a pattern of alleged violations exist. The criteria being satisfied would "trigger" CPSD to send the initial warning letter.

Further, any citation program should delineate what process CPSD will follow prior to issuing a citation. This could include CPSD sending the "warning letter," as well as other requirements, such as CPSD providing carriers an adequate amount of time to

respond and remedy the alleged problem and CPSD working with carriers to resolve any alleged problems. Additionally, the process could permit either CPSD or the given carrier to request alternative dispute resolution under ALJ Resolution 185 prior to CPSD issuing a citation.

Cox understands that all of the issues discussed at the informal workshop, among others, require further consideration by Staff and interested parties and Cox looks forward to working with Staff and the Commission on this matter.

Cox California Telcom, LLC
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1. Cox reserves its right to comment on issues related to any citation program that Staff may further recommend for Commission adoption.
2. The sending of the warning letter appears to be the same or similar to the “early intervention process” that the Commission identified in D.06-03-013. (*See* D.06-03-013, p. 95).
3. Section 2, Draft Resolution UEB-001, dated March 15, 2006; and Section 2, Draft Resolution UEB-001, circulated via email on April 7, 2006.